

**James Madison to Thomas Jefferson, April 16, 1781.
Transcription: The Writings of James Madison,
ed. Gaillard Hunt. New York: G.P. Putnam's Sons,
1900-1910.**

TO THOMAS JEFFERSON.¹

1 From the Madison Papers (1840).

Philadelphia, April 16, 1781.

Dear Sir, —The inclosed paper is a copy of a report,² from a committee, now lying on the table of Congress

2 “Whereas it is stipulated and declared in the 13th Article of the Confederation, ‘that every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this Confederation are submitted to them: And that the Articles of this Confederation shall be inviolably observed by every State;’ by which Article a general and implied power is vested in the United States in Congress assembled, to enforce and carry into effect all the Articles of the said Confederation against any of the States which shall refuse or neglect to abide by such their determinations, or shall otherwise violate any of the articles; but no determinate and particular provision is made for that purpose: And whereas the want of such provision may be a pretext to call into question the legality of such measures as may be necessary for preserving the authority of the Confederation, and for doing justice to the States which shall duly fulfil their federal engagements; and it is, moreover, most consonant to the spirit of a free Constitution, that, on the one hand, all exercise of power should be explicitly and precisely warranted, and, on the other, that the penal consequences of a violation of duty should be clearly promulged and understood:

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And whereas it is further declared by the said 13th Article of the Confederation, that no addition shall be made to the articles thereof, unless the same shall be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State: The United States in Congress assembled, having seriously and maturely deliberated on these considerations, and being desirous as far as possible to cement and invigorate the Federal Union, that it may be both established on the most immutable basis, and be the more effectual for securing the immediate object of it, do hereby agree and recommend to the Legislatures of every State, to confirm and to authorize their Delegates in Congress to subscribe the following clause as an additional article to the thirteen Articles of Confederation and perpetual union:

It is understood and hereby declared, that in case any one or more of the confederated States shall refuse or neglect to abide by the determinations of the United States in Congress assembled, and to observe all the Articles of Confederation as required by the 13th Article, the said United States in Congress assembled, are fully authorized to employ the force of the United States, as well by sea as by land, to compel such State or States to fulfil their federal engagements; and particularly to make distraint on any of the effects, vessels, and merchandizes of such State or States, or of any of the citizens thereof, wherever found, and to prohibit and prevent their trade and intercourse as well with any other of the United States and the citizens thereof, as with any foreign State, and as well by land as by sea, until full compensation or compliance be obtained with respect to all requisitions made by the United States in Congress assembled, in pursuance of the Articles of Confederation.

And it is understood, and is hereby agreed, that this article shall be binding on all States not actually in possession of the enemy, as soon as the same shall be acceded to and duly ratified by each of the said States.”

for consideration. The delicacy and importance of the subject makes me wish for your judgment on it, before it undergoes the final decision of Congress.

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The necessity of arming Congress with coercive powers arises from the shameful deficiency of some of the States which are most capable of yielding their apportioned supplies, and the military exactions to which others, already exhausted by the enemy and our own troops, are in consequence exposed. Without such powers, too, in the General Government, the whole confederacy may be insulted, and the most salutary measures frustrated,

by the most inconsiderable State in the Union. At a time when all the other States were submitting to the loss and inconvenience of an embargo on their exports, Delaware absolutely declined coming into the measure, and not only defeated the general object of it, but enriched herself at the expense of those who did their duty.

The expediency, however, of making the proposed application to the States, will depend on the probability of their complying with it. If they should refuse, Congress will be in a worse situation than at present; for as the Confederation now stands, and according to the nature even of alliances much less intimate, there is an implied right of coercion against the delinquent party, and the exercise of it by Congress, whenever a palpable necessity occurs, will probably be acquiesced in.

It may be asked, perhaps, by what means Congress could exercise such a power, if the States were to invest them with it. As long as there is a regular army on foot, a small detachment from it, acting under civil authority, would at any time render a voluntary contribution of supplies due from a State, an eligible alternative. But there is a still more easy and efficacious mode. The situation of most of the States is such, that two or three vessels of force employed against their trade will make it their interest to yield prompt obedience to all just requisitions on them. With respect to those States that have little or no foreign trade of their own, it is provided that all inland trade with such States as supply them with foreign merchandize may be interdicted, and

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the concurrence of the latter may be enforced, in case of refusal, by operations on their foreign trade.

There is a collateral reason which interests the States who are feeble in maritime resources, in such a plan. If a naval armament was considered as the proper instrument of general government, it would be, both preserved in a respectable state in time of peace, and it would be an object to man it with citizens, taken in due proportions, from every State. A navy so formed, and under the orders of the General Council of the State, would not only be a guard against aggressions and insults from abroad, but, without it, what is to protect the Southern States, for many years to come, against the insults and aggressions of their northern brethren?